

1 BILL NO. S-84-07-06

2 SPECIAL ORDINANCE NO. S-83-84

3 AN ORDINANCE approving a Contract  
4 for Res. #6000-84, Larez VIII,  
5 Phase III, by the City of Fort  
6 Wayne, Indiana by and through its  
Board of Public Works with Hipkind  
Concrete Corporation.

7 NOW, THERFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
8 THE CITY OF FORT WAYNE, INDIANA:

9 SECTION 1. That the annexed Contract, made a part  
10 hereof, by the City of Fort Wayne by and through its Board of  
11 Public Works and Hipkind Concrete Corporation, for Res. #6000-84,  
12 Larez VIII, Phase III, is hereby ratified, and affirmed and ap-  
13 proved in all respects. The work under said Contract requires:

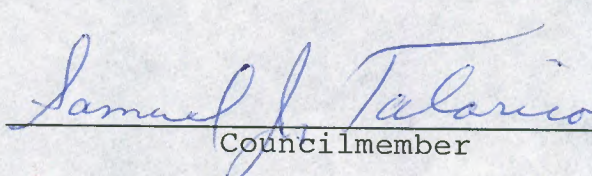
14 reconstruction of curbs, sidewalks,  
15 drive approaches, and drainage struc-  
16 tures on Butler Street, from Barr  
17 Street to Lafayette, Barr Street,  
18 from Butler to Williams, Williams  
19 Street, from the alley west of  
Clinton to Lafayette; and Barr Street,  
from Williams to Masterson. NOTE:  
Barr Street from Williams to Masterson  
shall be bid as an add alternate;

20 the Contract price is Fifty-Nine Thousand One Hundred Sixty-Seven  
21 and 50/100 Dollars (\$59,167.50).

22 SECTION 2. Prior Approval was received from Common  
23 Council with respect to this Contract on July 3, 1984. Two (2)  
24 copies of the Contract attached hereto are on file with the City  
25 Clerk, and are available for public inspection.

26 SECTION 3. That this Ordinance shall be in full force  
27 and effect from and after its passage and any and all necessary  
28 approval by the Mayor.

29  
30 APPROVED AS TO FORM  
31 AND LEGALITY

32   
Bruce O. Boxberger, City Attorney



Read the first time in full and on motion by Talarico, seconded by Redd, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .M., E.S.

DATE: 7-10-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Talarico, seconded by Redd, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 7-24-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. J-83-84  
on the 24th day of July, 1984,

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Ray A. Ebert  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of July, 1984, at the hour of 11:30 o'clock A. .M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 25th day of July, 1984, at the hour of 3:00 o'clock PM .M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



# CONTRACT

This Agreement, made and entered into this 5<sup>th</sup> day of July, 1984

by and between ----- HIPSKIND CONCRETE CORPORATION -----

----- 5502 MASON DRIVE, FORT WAYNE, IN. 46809 -----

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to implement RESOLUTION 6000-1984:

prove Butler St., from Barr Street to Lafayette; Barr Street, from Butler to Williams; and Williams Street, from the alley west of Clinton to Lafayette

by reconstructing curbs, sidewalks, drive approaches, and drainage structures.

## BASE BID

This project shall also be known as LAREZ VIII, PHASE III.

~~by grading and paving the roadway to a width of xxxxxxxxxxxx feet with xxxxxxxxxxxxxxxxxxxxxxxx~~

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 6000-84 attached hereto and by reference made a part hereof.

~~and at the following price per lineal foot~~

At the following prices:

Concrete Removal	One dollar and ninety cents per square yard	1.90
Curb Removal	No dollars and eighty cents per lineal foot	.80
Concrete Sidewalk	One dollar and forty-five cents per square foot	1.45
Concrete Wingwalk Incl. Ramps	One dollar and eighty cents per square foot	1.80
6" Concrete for Drives	Sixteen dollars and no cents per square yard	16.00
8" Concrete	Eighteen dollars and no cents per square yard	18.00



2" Concrete Curbwalk	Two dollars and ninety cents per square foot	2.90
Concrete Curb Type III	Six dollars and sixty cents per lineal foot	6.60
Asphalt Patching	No dollars and twenty cents per lineal foot	.20
Seed, Mulch & Fertilizer	No dollars and fifty cents per square yard	.50
Topsoil	Three dollars and no cents per ton	3.00
Adjust Casting to Grade	Fifty dollars and no cents per each	50.00
Tree Removal 24"	Two hundred dollars and no cents per each	200.00
Tree Removal 36"	Two hundred fifty dollars and no cents per each	250.00
B-Borrow for Sidewalk Fill	Three dollars and no cents per ton	3.00
Total Base Bid	Fifty-nine thousand, one hundred sixty-seven dollars and fifty cents	\$59,167.50

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act, (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discrimination in employment under municipal contracts, is attached and incorporated herein by reference.

MANPOWER UTILIZATION REPORT  
FOR  
CITY OF FORT WAYNE CONTRACTS

PROJECT TITLE:

CONTRACTOR:

TOTAL CONTRACT PRICE:

AA BID OPTION:

<u>TOTAL</u> <u>WORKFORCE USED</u>	<u>RACIAL BREAKDOWN</u> <u>W    B    A    O</u>	<u>SEX</u> <u>M       F</u>	<u>TOTAL</u> <u>HOURS</u> <u>WORKED</u>	<u>MINORITY</u> <u>HOURS</u> <u>WORKED</u>	<u>% MINORITY</u> <u>HOURS</u> <u>WORKED</u>
---------------------------------------	--	--------------------------------	---	--	--

To be placed in bid specifications, completed by contractor & returned to the City when completion affidavit is submitted.



MINORITY/FEMALE EMPLOYMENT REQUIREMENTS

(CHOOSE ONE OPTION)

1. I will be a participating member of the Fort Wayne Area Plan for the duration of this Contract.
2. I will be a union contractor for the duration of this Contract. All those performing work on this project will be unionized, or equality.
3. I am currently bound to Federal Register requirements and I will follow them for the duration of this Contract. (This is not an option to those contractors not already bound to follow the Federal Register.)
- X 4. I will be bound to the following statements and shall complete the Percentage Participation Goal Statement.

The contractor's/bidder's attention is directed to the fact that the City of Fort Wayne, Indiana has made a determination to encourage a greater utilization of minority and/or female employees in construction projects of the City. The Board of Works has, therefore, adopted a minimum goal of 17% of the total work hours on each project to be expended by minority and/or female employees.

Minority for these purposes shall include all of the following: Black, Hispanic, Asian, American Indian, Alaskan Indian or Pacific Islander.

In bidding on this project the contractor/bidder shall be required to state that percentage of total work hours to be expended on the project by minority and/or females. The percentage so designated shall, if the contractor's or bidder's offer is accepted by City, become contractually binding upon said bidder or contractor.

The contractor/bidder is further advised that all laws, rules, regulations, execution orders, and directives issued by the State of Indiana or the United States of America affecting or pertaining to this project or the work to be performed hereunder shall be controlling to the extent so provided or to the extent that they might impose greater participation of employment by minority and/or female employees and this determination by the City of Fort Wayne does not supercede any of such state or federal laws, rules, regulations, orders, or directives applicable to the work covered hereunder.

The offeror or bidder is herewith advised that failure to complete and submit the following Percentage Participation Goal Statement as a part of its bid shall cause the bid to be rejected as non-responsive.



PERCENTAGE PARTICIPATION GOAL STATEMENT

The undersigned herewith agrees that not less than 20% of the total work hours expended by it and all of its subcontractors on the work covered by this bid shall be expended by minority and/or female employees. (City has adopted a minimum goal of 17% of total work hours for each project for minority and/or female participation.)

Hypeshine Concrete  
Contractor/Bidder

The bidder is further directed to stipulate below, what acts have or will be taken to ensure that the above agreed upon percentage of total work hours expended by minorities and/or females will be met:

By working the job myself

R. H. Hines

NOTICE

The monitoring and compliance authorities will be performed by the City of Fort Wayne, Indiana Compliance Officer. The contractor and his subcontractors will make all relevant and pertinent records available under this contract for inspection by authorized representatives of the Equal Employment, Affirmative Action Office, and Department of Labor, and will permit such representatives access to such during normal working hours. Worksite visits are for verification purposes. If contractor believes that records requested are not relevant, they may initially deny access, promptly notify the Board of Public Works and comply with the findings of the Board as to the relevancy of the requested records.



### Special Provisions - Additional Remedies

Contractor/Bidder is herewith advised that, in addition to all other remedies available to it for breach of contract, City shall have the following additional rights and remedies as against contractor/bidder in the event of a breach of or a failure to file such forms as City might require to assure full compliance with all of the EEO/AA terms of the contract.

1. To withhold all payments otherwise due contractor/bidder until such time as contractor/bidder complies with the EEO/AA terms and provisions of this contract.
2. To assess a penalty of \$100.00 per day or 10% of the total contract sum if contractor/bidder fails to comply with the EEO/AA terms of this contract, including a failure to furnish such information and forms a City may require from time to time to assure compliance with non-discrimination and affirmative action provisions of this contract.
3. To terminate the contract with contractor/bidder and forfeit all sums then due or to thereafter become due to contractor/bidder.

The contractor/bidder is herewith advised of the necessity of its compliance with the terms and provisions of Indiana Code 5-16-6-1 which provides as follows:

- a. In the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor, shall by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the State of Indiana, who is qualified and available to perform the work to which the employment relates;
- b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, national origin or ancestry.
- c. There may be deducted from the amount payable to the contractor by the State of Indiana or by any municipal corporation thereof, under this contract, a penalty of five (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; and
- d. This contract may be cancelled or terminated by the State of Indiana or by any municipal corporation thereof, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or condition of this section of the contract. (Acts 1933, ch. 270, Sec. 1, P 1228, P.L. 27, sec. 2, P. 127).



CITY OF FORT WAYNE, INDIANA  
BOARD OF PUBLIC WORKS:

Daivd J. Kiester, Chairman

Betty R. Collins, Member

Frank W. Heyman, Member

Helen V. Gochenour, Clerk



GENERAL ORDINANCE NO. G-34-78 (as amended)

AN ORDINANCE amending Chapter 15 of the Code of the City of Fort Wayne, Indiana of 1974.

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Section 15-13 "Employment under Municipal Contract," Article III, Chapter 15 of the Code of the City of Fort Wayne, Indiana of 1974 is amended to be and read as follows, to wit:

"Sec. 15-13 Same - Under Municipal Contract.

15-13-1 Definitions. As used in this Section, the following words have these meanings:

- a. The terms "Discriminates," "discriminating," "discriminatory" mean and include:
  - (1) to promote segregation or separation in any manner, to treat any person differently, or to exclude from or fail or refuse to extend to any person equal opportunities with respect to hiring, termination, compensation, or other terms, conditions or privileges of employment, because of the race, religion, sex, color, national origin or handicap of any such person;
  - (2) also, to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped employee;
  - (3) also, to fail to make reasonable accommodation to the religious observance or practice of any employee or prospective employee unless the employer can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business;
  - (4) also, to make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to employment that indicates a preference, limitation, specification or discrimination based on race, sex, religion, color, national origin or handicap;
  - (5) the following practices are not included in the meaning of "discrimination":
    - (a) for any not-for-profit association, incorporated or otherwise, organized exclusively for fraternal or religious purposes, to devote its resources to its own religion or denomination, or to give employment preference to its own members,



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  - (2) also, to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped employee;
  - (3) also, to fail to make reasonable accommodation to the religious observance or practice of any employee or prospective employee unless the employer can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business;
  - (4) also, to make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to employment that indicates a preference, limitation, specification or discrimination based on race, sex, religion, color, national origin or handicap;
  - (5) the following practices are not included in the meaning of "discrimination":
    - (a) for any not-for-profit association, incorporated or otherwise, organized exclusively for fraternal or religious purposes, to devote its resources to its own religion or denomination, or to give employment preference to its own members,



- (b) for any not-for-profit association, incorporated or otherwise, established for the purpose of offering or providing education, training or other social services and benefits to handicapped persons, to devote its resources to such handicapped persons with respect to such education, training or social services and benefits.
- b. The term "handicap" means and includes:
- (1) any physical or mental impairment which substantially limits one or more of a person's major life activities; or
  - (2) a record of such an impairment, and includes,
  - (3) a person who is regarded as having such an impairment; provided that,
  - (4) this term does not include drug or alcohol abuse or addiction.
- c. The term "obstruct" means and includes the actions of any person knowingly obstructing the fair and lawful enforcement of this Article of this Chapter by coercing or intimidating any complainant or prospective complainant, or any witness to any act of discrimination as defined herein, after such person has received actual notice of a discrimination charge or has been served notice of a complaint filed.
- d. The term "retaliate" means and includes the actions of any person in discriminating against any other person with regard to, or denying any other person access to or opportunities in employment, because any such other person has opposed any practice made unlawful by this Article of this Chapter, or because such other person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this Article of this Chapter.

15-13-2 Mandatory Covenants. Every contract for or on behalf of the City of Fort Wayne for the construction, alteration or repair of any public building or public work or the performance of any other work or service shall contain provisions by which the contractor agrees, as follows:

- a. That in the performance of work under such contract or any subcontract thereunder, the contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, will not discriminate against any person who is qualified and available to perform the work to which the employment relates.
- b. That such contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor will not obstruct the enforcement of this Article of this Chapter.
- c. That such contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor will not retaliate against any person.



15-13-3 Enforcement. Enforcement of this Article of this Chapter shall be through order of the Board of Public Works, in the following manner:

- a. Whenever any member of the Board of Public Works, or whenever the Affirmative Action Officer who is assigned to help watch over public contracts has reason to believe that any of the provisions hereof have been violated, the matter may be referred to the Metropolitan Human Relations Commission for investigation and initiation of discrimination charges against the contractor or subcontractor. Cases over which the Commission has no jurisdiction shall be investigated by said Affirmative Action Officer.
- b. A final order of the Metropolitan Human Relations Commission shall be forwarded to the Board of Public Works, which may invoke one of the remedies set forth in Sub Section 15-13-4 hereof. If it is a matter over which the Metropolitan Human Relations Commission has no jurisdiction, the Board of Public Works shall conduct a hearing to determine whether there has been a breach of this Article of this Chapter. In so doing, the Board may call upon the Commission for consultation.

15-13-4 Remedies. Upon finding that a contractor or sub-contractor or any person acting on behalf of such contractor or subcontractor has violated a provision or provisions of this Article of this Chapter, whether discriminating, obstructing, retaliating, or otherwise, the Board of Works may:

- a. Deduct from the amount payable to the contractor by the City of Fort Wayne under such contract a penalty of no less than ten dollars (\$10.00) per day, per violation, nor more than one thousand dollars (\$1,000.00) per day, per violation. Each day on which a continuing violation exists, shall be deemed a separate offense; or,
- b. The Board of Works may cancel or terminate the contract, and all money due or to become due thereunder may be forfeited, for a second or any subsequent violation of this article of this Chapter.

SECTION 2. That Chapter 15, Article III, of the Code of the City of Fort Wayne, Indiana of 1974 is further amended by adding thereto a new section 15-13A, which shall be and read as follows, to wit:

"Sec. 15-13A. A verbatim copy of Sec. 15-13 may be attached as an exhibit to and incorporated in and made a part of any contract made by or on behalf of the City of Fort Wayne, Indiana for any public work; which shall constitute compliance with Sec. 15-13-2."

EXHIBIT "A"  
(page 3)



MBE/WBE STATEMENT

FOR

CITY OF FORT WAYNE, INDIANA

Resolution # 6000-84

The City is committed to minority/women's business participation, and the Citizens' Advisory Committee is presently preparing an ordinance concerning minority and women's business participation for City construction contracts. This project is also governed by various affirmative action requirements including Presidential Executive Order Number 11246. To assist the City in meeting its stated goals and to further meet affirmative action requirements, the undersigned commits Five percent (5%), as a goal, of the undersigned's total bid to minority/women's business participation. In that regard, the following MBE and/or WBE firms have been contacted to work as subcontractors:

Name of Firm

Type of Work

1.

2.

AM ATTEMPTING TO CONTACT

3.

4.

Submitted on: Z-2, 1984

By: HIPSKIND CONCRETE  
(Company Name)

David Hipkind  
Name & Title of Person Authorized to Sign  
PRESIDENT

Business Address: 5502 MASON DR

Phone Number: 747 1340



TO: ALL DEPARTMENT HEADS OF THE CIVIL CITY AND CITY UTILITIES  
OF THE CITY OF FORT WAYNE, INDIANA, AND ALL BOARDS,  
COMMISSIONS, AGENCIES AND AUTHORITIES OF THE CITY OF  
FORT WAYNE, INDIANA

FROM: MAYOR WINFIELD C. MOSES, JR.

DATE: August 29, 1983

RE: Establishment of City Policies and Procedures With Respect  
to Minority Business Participation in City Procurement  
and Construction Contracts

1. BACKGROUND: Minority business participation programs are valuable economic development tools, since they help to create jobs and job opportunities for economically disadvantaged residents of this community. Accordingly, the City has, over the past several months, worked closely with representatives from local minority businesses, in an attempt to develop an Ordinance establishing City affirmative action programs that would facilitate minority business participation in City procurement and construction contracts. Such an Ordinance was developed and submitted to the Common Council of the City of Fort Wayne, Indiana. The administration anticipated that the Council would act favorably on such Ordinance, however, the Ordinance was defeated. Therefore, the directives herein contained are made effective immediately.

2. STATEMENT OF GOALS: The City does commit itself to participation goals for minority businesses in all City procurement and construction contracts for which bids are received. To assure that minority businesses participate in City procurement and construction contracts to the fullest extent possible, the stated goal of this City is that minority businesses receive 15% of the total of such contracts awarded in each and every fiscal year. The purpose of this memorandum and the directives herein contained is to assist the City in meeting its stated goals.

3. RECORDKEEPING: To facilitate the goals of the City, as herein stated, each department head of the City, including all heads of boards, commissions, agencies, and authorities of the City, is charged with the duty of formulating and maintaining adequate records and documentation disclosing minority business participation in City bid construction and procurement contracts emanating from such department, board, commission, agency, or authority. The form of such recordkeeping and the contents of same shall be as determined, within 30 days from date hereof, by the City Controller, the City's Director of Purchasing, the Chairman of the Board of Public Works, and the City's Compliance Officer.



4. MONITORING: A special internal monitoring task force is hereby created to monitor and review all records compiled hereunder. This special task force shall consist of the City Controller, the City's Contract Compliance Officer, Community Development & Planning's Compliance Officer, CETA's independent monitoring unit's representative, the City's Minority Affairs Director, and the Executive Director of the Metropolitan Human Relations Commission. The special task force shall report and advise the Mayor and the Mayor's Affirmative Action Advisory Committee.

5. ESTABLISHMENT OF CITIZENS ADVISORY COMMITTEE: There is hereby established a "Citizens Advisory Committee", hereinafter referred to as "Committee". This Committee shall act as an advisory committee to the Mayor. This Committee shall consist of at least nine members appointed by the Mayor within ten days from date hereof as follows:

(a) A majority of the Committee shall be persons who are actively involved in the day to day business of minority businesses in this community, or their representatives;

(b) One member shall be a member of the Common Council of the City of Fort Wayne;

(c) One member shall be a person recommended by the Common Council of the City of Fort Wayne;

(d) One member shall be an employee of the City of Fort Wayne involved in the awarding of procurement and/or construction contracts; and

(e) The remaining member(s) shall be appointed by the Mayor, at large.

This Committee shall meet at those times and places as deemed appropriate by its members or as otherwise deemed appropriate by the Mayor. The Committee shall make, from time to time, recommendations to the Mayor and to the Common Council on how to best continue, re-define, clarify, codify, and implement the goals of the City with respect to the continued and further involvement of minority-owned businesses in City procurement and construction contracts for which bids are received.

Furthermore, the Committee shall apprise and make recommendations on the following:

(a) The definition for "minority business". The few communities that have addressed this subject have adopted various definitions for "minority business".



The definition of "minority business" might include minorities based upon sex, as well as race. Some communities have separate participation goals for minority businesses and women business enterprises. Also, consideration should be given to preference for local minority businesses;

(b) Desirability or necessity of working with other local governments, such as Allen County, Indiana, to more fully implement the goals and purposes herein stated for all local government contracts;

(c) The necessity to work within Indiana Code 36-1-9-1, which is the State Purchasing Law governing cities, so our programs will survive any and all legal challenges;

(d) The necessity to work within Indiana Code 36-1-12-1, which is the law governing the awarding of public works contracts, so our programs will survive any and all legal challenges; and

(e) The form and substance of any ordinances or resolutions to be presented to the Common Council of the City of Fort Wayne, Indiana, for the codifying of any and all programs developed concerning minority business participation.

6. IMMEDIATE ACTION: The Board of Public Works of the City of Fort Wayne, Indiana, and the Director of the City's Department of Purchasing, and all other officers and employees of the City involved in the awarding of City procurement and construction contracts, are hereby charged with the duty of preparing specifications for such City procurement and construction contracts that will encourage minority business participation. Thus, as a criterion for awarding contracts, the appropriate officers of the City shall prepare specifications that include minority business participation as a vital segment of those bid specifications.

7. ATTORNEY GENERAL'S OPINION: Legal questions were raised as to whether or not the Ordinance previously submitted to the Common Council was in conflict with state law and met constitutional guidelines. Because voluntary affirmative action is an area of the law that is currently unsettled, the administration preferred, even in light of such legal questions, the passage of the Ordinance. The administration was prepared if necessary, to defend the Ordinance against legal challenge. Legal research indicates a court cannot render an advisory opinion as to whether or not voluntary affirmative action in city procurement and construction contracts is permissible under existing state law. Therefore, because of legal uncertainties of affirmative action plans, the administration



shall seek an opinion from the Indiana Attorney General on the legality of a minority business participation ordinance. The administration seeks this opinion with the understanding that while such opinions may be informative as to the Attorney General's position on such ordinances, an Attorney General's opinion is not binding in a court of law. Also, if legally possible, a similar opinion shall be sought from the United States Department of Justice.

8. NEW LEGISLATION: The City Attorney of the City of Fort Wayne, Indiana, is hereby instructed to commence immediately the drafting of new legislation for submission to the General Assembly of the State of Indiana in January of 1984. This new legislation shall concern necessary amendments to the existing State Purchasing and Public Works Construction Laws so as to clearly allow for minority business participation programs.

This document has been signed and made effective this 29th day of August, 1983.



Winfield C. Moses, Jr., Mayor  
of the City of Fort Wayne, Indiana



IMPROVEMENT RESOLUTION

FOR CURB AND SIDEWALK

5-16-84  
#1

No. 6000 -1984

RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA,  
That it is deemed necessary to improve Butler Street, from Barr Street to Lafayette; Barr Street,  
from Butler to Williams; Williams Street, from the Alley West of Clinton to Lafayette; and  
Barr Street, from Williams to Masterson by reconstructing curbs, sidewalks, drive approaches,  
and drainage structures. This project shall also be known as LaRez NSA, Phase III.

NOTE: Barr Street from Williams to Masterson shall be bid as an add alternate.

in accordance with the profile, detail-drawing and specifications on file in the office of the Department of  
Public Works of said City; and such improvement is now ordered.

is hereby found by said Board of Public Works that all benefits accruing hereunder  
shall be to the general public of the City of Fort Wayne and that no special benefits  
shall accrue to any property owner adjoining said improvement or otherwise assessable  
under said improvement. The cost of said improvement shall be paid.

Adopted, this 11<sup>th</sup> day of May, 1984

BOARD OF PUBLIC WORKS:

*David Hunt*  
*[Signature]*



PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we HIPSKIND CONCRETE CORPORATION  
as Principal, and the FIDELITY & DEPOSIT COMPANY OF MARYLAND -----  
-----, a corporation organized under the laws of the  
State of -----, and duly authorized to transact business in the  
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,  
Indiana, an Indiana Municipal Corporation in the sum of FIFTY-NINE THOUSAND,  
ONE HUNDRED SIXTY-SEVEN DOLLARS AND FIFTY CENTS -----  
(\$ 59,167.50 -----), for the payment whereof well and truly to be made,  
the Principal and Surety bind themselves, their heirs, executors, administrators,  
successors and assigns, jointly and severally, firmly by these presents. The  
condition of the above obligation is such that

WHEREAS, the Principal did on the 5 day of July, 1984,  
enter into a contract with the City of Fort Wayne to construct

Resolution No. 6000-1984:

To improve Butler Street, from Barr Street to Lafayette; Barr Street, from  
Butler to Williams; and Williams Street, from the alley west of Clinton to  
Lafayette by reconstructing curbs, sidewalks, drive approaches, and drainage  
structures.

BASE BID

This project shall also be known as LAREZ VIII, PHASE III.

at a cost of \$ 59,167.50 -----, according to certain plans and specifications  
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement  
provides:

1. That said improvement shall be completed according to said plans and  
specifications, and contractor shall warrant and guarantee all work, mater-  
ial, and conditions of the improvement for a period of three (3) years from  
the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after comple-  
tion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifica-  
tions, and repairs as required by the City within thirty (30) days after  
notice.



WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

HIPSKIND CONCRETE CORPORATION  
(Contractor)

BY: [Signature]

ITS: President

ATTEST:

Marcia S. Dunwiddie  
CSA  
(Title)

Fidelity & Deposit Company  
Surety

\*BY: [Signature]

Authorized Agent  
(Attorney-in-Fact)

\*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY



Power of Attorney  
**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

HOME OFFICE: BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

SEC. 2. The President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto.

does hereby nominate, constitute and appoint Oscar C. Mitson, Terrence J. Ward and R. Kelly Disser, Jr., all of Fort Wayne, Indiana, EACH.....

its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, each in a penalty not to exceed the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000).....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Oscar C. Mitson, etal, dated, April 17, 1980.

The said Assistant Secretary does hereby certify that the foregoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 1st day of June, A.D. 1982....

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

ATTEST:



CW Robbins  
Assistant Secretary

By

CM Pecot Jr  
Vice-President

STATE OF MARYLAND } ss:

CITY OF BALTIMORE

On this 1st day of June

A.D. 1982

, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.



Notary Public Commission Expires July 1, 1982

**CERTIFICATE**

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2 of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 2nd day of July, 1984

Assistant Secretary

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- HIPSKIND CONCRETE CORPORATION -----

(Name of Contractor)

----- 5502 MASON DRIVE, FORT WAYNE, IN 46809 -----

(Address)

a \_\_\_\_\_, hereinafter called Principal,  
(Corporation, Partnership or Individual)

and -----FIDELITY & DEPOSIT COMPANY OF MARYLAND-----

(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of FIFTY-NINE THOUSAND, ONE HUNDRED SIXTY-SEVEN DOLLARS AND FIFTY CENTS -----

for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 5 day of July, 1987, for the construction of:

RESOLUTION NO. 6000-84

To improve Butler Street, from Barr Street to Lafayette; Barr Street, from Butler to Williams; and Williams Street, from the alley west of Clinton to Lafayette by reconstructing curbs, sidewalks, drive approaches, and drainage structures.

BASE BID

This project shall also be known as LAREZ VIII, PHASE III.

at a cost of FIFTY-NINE THOUSAND, ONE HUNDRED SIXTY-SEVEN DOLLARS AND FIFTY CENTS -----

(\$ 59,167.50 -----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.



NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3 counter-  
(number)  
parts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(SEAL)

ATTEST:

\_\_\_\_\_  
(Principal) Secretary

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Address)

Marcia S. Dumire  
Witness as to Surety

1928 Inwood  
(Address)

HIPSKIND CONCRETE CORPORATION

Principal

BY [Signature]

President

(Title)

\_\_\_\_\_  
(Address)

Fidelity & Deposit Company

Surety

BY [Signature]

Attorney-in-Fact

(Authorized Agent)

\_\_\_\_\_  
(Address)

NOTE: Date of Bond must not be prior to date of Contract.  
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY



US-UNSKILLED  
IF-INDUSTRIAL FUND  
PW-PER. WEEK  
PR-PROMOTIONAL FUND

the undersigned committee, being appointed to prepare a schedule of the prevailing wages to be paid in connection with, *All Construction and Maintenance contracts awarded by the Board of Works, City of Fort Wayne, Indiana for the months of April, May and June, 1984.*  
in compliance with the provisions of CHAPTER # 319 of the acts of the GENERAL ASSEMBLY of INDIANA, 1935, have established a schedule as hereinafter set forth:

**Power of Attorney**  
**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**  
HOME OFFICE: BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

SEC. 2. The President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto.

does hereby nominate, constitute and appoint Oscar C. Mitson; Terrence J. Ward and R. Kelly Disser, Jr., all of Fort Wayne, Indiana, EACH.....

its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, each in a penalty not to exceed the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000).....


And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Oscar C. Mitson, etal, dated, April 17, 1980.

The said Assistant Secretary does hereby certify that the foregoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

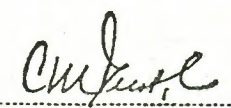
IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 1st day of June, A.D. 1982.....

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

ATTEST:


  
STATE OF MARYLAND } ss:  
CITY OF BALTIMORE }  
On this 1st day of June, A.D. 1982, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.

C. W. Robbins  
Assistant Secretary

By   
Vice-President

On this 1st day of June, A.D. 1982, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.



  
Notary Public Commission Expires July 1, 1982

**CERTIFICATE**

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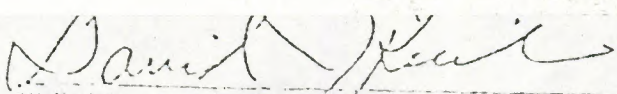
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RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 2nd day of July, 1984

  
Assistant Secretary

FOR YOUR PROTECTION LOOK FOR THE F&D WATERMARK

  
REPRESENTING THE AWARDING AGENCY



BILL NO. S-84-07-06

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS REFERRED AN  
ORDINANCE approving a Contract for Res. #6000-84, Larez VIII,  
Phase III, by the City of Fort Wayne, Indiana by and through its  
Board of Public Works with Hipskind Concrete Corporation

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

*Samuel J. Talarico*

CHARLES B. REDD, VICE CHAIRMAN

*Charles B. Redd*

JANET G. BRADBURY

*Janet G. Bradbury*

PAUL M. BURNS

*Paul M. Burns*

THOMAS C. HENRY

*Thomas C. Henry*

CONCURRED IN 7-2-84  
SANDRA E. KENNEDY, CITY CLERK

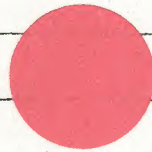


TITLE OF ORDINANCE Contract for Res. #6000-84, Larez VIII, Phase IIIDEPARTMENT REQUESTING ORDINANCE Board of Public Works

S-8407-06

SYNOPSIS OF ORDINANCE The Contract for Res. #6000-84, Larez VIII, Phase III, is for reconstruction of curbs, sidewalks, drive approaches, and drainage structures on Butler Street, from Barr Street to Lafayette, Barr Street, from Butler to Williams, Williams Street, from the alley west of Clinton to Lafayette; and Barr Street, from Williams to Masterson. NOTE: Barr Street from Williams to Masterson shall be bid as an add alternate. Contractor is Hipskind Concrete Corporation.

PRIOR APPROVAL WAS RECEIVED ON JULY 3, 1984

EFFECT OF PASSAGE Improvement of above area.

EFFECT OF NON-PASSAGE \_\_\_\_\_

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$59,167.50

ASSIGNED TO COMMITTEE \_\_\_\_\_